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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 157 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

GIRDHARLAL VITHALDAS PATEL

Appearance:

MR MIHIR JOSHI FOR MR MANISH R BHATT for Applicant.

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 14/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. Following question has been referred to this Court for its opinion by the Income Tax Appellate

Tribunal, Ahmedabad Bench "A" under the provisions of section 256(1) of the Income Tax Act,1961 (hereinafter referred to as 'the Act') :

"Whether, on the facts and in the circumstances of the case, and the true interpretation of sections 80HH & 80J of the Income-tax Act,1961 the assessee would be entitled to claim deduction in full, under both these sections?"

2. We have heard learned Advocate Mr.Mihir Joshi appearing for the Revenue. Nobody appears for the respondent assessee though the respondent has been duly served. Looking to the facts of the case, learned Advocate Mr.Mihir Joshi appearing for the Revenue has fairly submitted that this question has already been decided in favour of the assessee and against the Revenue by answering the question in the affirmative in I.T.R.No.282 of 1985.

4. In view of the fact that as the above question, has already been decided, we answer the question in the affirmative i.e. in favour of the assessee and against the Revenue.

5. Reference is answered accordingly and is disposed of with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta,J)

m.m.bhatt.